

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**SANDY ONTIVEROS**

*f,*

V.

**UNITED STATES OF AMERICA**

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CIVIL ACTION NO. 21-320

COMPLAINT FOR  
DECLARATORY REIEF  
(Fed. R. Civ. P. 57)

**PLAINTIFF'S ORIGINAL COMPLAINT FOR DECLARATORY RELIEF**

TO THE HONORABLE JUDGE OF THE COURT:

NOW COMES SANDY ONTIVEROS, Plaintiff in the above-styled and numbered civil action, and files this Original Complaint pursuant to 28 U.S.C. § 2201 for a declaration that the Plaintiff does not owe any money to the United States of America, or its political subdivision, for any care or treatment related to the automobile collision on December 10, 2012 and that Defendant is not entitled to any portion of the third-party settlement proceeds. In support of this complaint, Plaintiffs would respectfully show the Court the following:

**PARTIES**

1. Plaintiff, SANDY ONTIVEROS, is an individual who resides in San Antonio, Texas and has received medical treatment at Brooke Army Medical Center in San Antonio, Texas.

2. Defendant, UNITED STATES OF AMERICA, may be served with process by serving the following individuals in the manner prescribed:

- a) Ashley Chapman Hoff, United States Attorney for the Western District of Texas, via certified mail, return receipt requested at 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216; and
- b) United States Attorney General, Merrick Garland, via certified mail, return receipt requested, at U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530.

### **JURISDICTION AND VENUE**

3. This court has jurisdiction of the subject matter of this action, pursuant to 28 U.S.C. § 1346, because it arises out of the laws of the United States and the United States is a Defendant. This dispute concerns the validity and enforceability of a claim asserted by the United States pursuant to the Medical Care Recovery Act, 42 U.S.C. § 2651.

4. Venue is proper in the United States District Court, Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. § 1391 because the events and occurrences giving rise to this claim arose in this District.

### **FACTS**

5. On or about December 10, 2012, Plaintiff sustained personal injuries in a motor vehicle collision with a third-party. Plaintiff did not receive treatment at Brooke Army Medical Center (BAMC) for any injuries related to this collision. Plaintiff did not use any medical records or bills from BAMC in support of the December 10, 2012 claim. The only medical records that were submitted were medical treatments from December 10, 2012 to August 10, 2013. Defendant has failed to provide the amount of any alleged claim.

6. The Defendant, United States of America, is not entitled to recover any money against the settlement proceeds. However, as a result of Defendant's failure to release its alleged claim, the insurance settlement proceeds cannot be disbursed. Plaintiff seeks a declaratory judgment so that settlement funds can be disbursed.

7. As a practical matter, Plaintiff filed this suit because Brooke Army Medical Center failed to respond to the numerous written and verbal requests. Plaintiff's account has remained in a state of permanent limbo for several years now. All Plaintiff is trying to do is resolve the Defendant's claim so that the settlement funds can be disbursed. However, the

breakdown in communication between Brooke Army Medical Center has made amicable resolution of the Defendant's lien impossible. The representative for Brooke Army Medical Center states she can only verbally state the United States has no claim as a result of the December 10, 2012 motor vehicle collision but she can not put it in writing.

8. An actual controversy now exists between the parties with respect to the validity and enforceability of claim asserted by the Defendant.

### **DECLARATORY JUDGMENT**

9. In order to resolve this controversy, Plaintiff requests that, pursuant to 28 U.S.C. §2201, this court declare the respective rights and duties of the parties in this matter and, in particular, that the court declare that Defendant is not entitled to any portion of the settlement proceeds.

10. A valid case or controversy exists sufficient for this court to declare the rights and remedies of the parties in that the settlement proceeds cannot be disbursed and Plaintiff cannot receive any settlement funds until the validity and enforceability of Defendant's claim is determined.

11. The Plaintiff has the requisite standing to request this declaration in that Plaintiff is suffering a direct and personal injury as a result of the invalid and unenforceable claim asserted by the Defendant against the settlement proceeds.

12. This controversy is ripe for determination at this time because Defendant is currently preventing the settlement proceeds from being disbursed and is currently asserting a claim against the third-party settlement proceeds.

**ATTORNEYS FEES**

13. Plaintiff has retained the undersigned to represent her in this action and has agreed to pay the firms' reasonable and necessary attorney's fees. An award of reasonable and necessary attorney's fees to the Plaintiff would be equitable and just.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that:

1. This court render a declaratory judgment providing that Defendant is not entitled to any portion of the settlement proceeds;
2. Plaintiff receive costs of suit, including reasonable attorney's fees ; and
3. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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/S/ Alfred Ramirez  
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